

**FBE 588 Advanced Real Estate Law**

**Summer 2015**

# Instructor

Instructor: C. Kerry Fields

Office: ACC 232B

Office phone: 213.740.9307

E-mail: [fields@usc.edu](mailto:fields@usc.edu)

Twitter: [www.twitter.com/USCProf](http://www.twitter.com/USCProf)/

# Lecture Class

Section: 15470R

Time: Tuesday 6:00-10:00 PM

Location: JKP 112

Units: 3

# Office Hours

Tues. & Wed.: 5:30 – 6:00 p.m.; and

after class and by appointment

Additional off campus number: 714.282.9292

Cell phone: 714.334.6850

# Course Description

This is a survey course presenting the legal aspects of real estate sales and ownership, real property rights, forms of land ownership and land interests, types of real estate transactions, requirements of real estate contracts, title, title insurance, land use, and regulation and taxation of real property. We will address relevant insurance, bankruptcy and entity operational issues. We will also cover construction issues including construction documents, liens and remedies. This course qualifies for educational credit for the California real estate broker’s license.

# Course Prerequisites

Other than an interest in learning about the legal environment in which real property is transferred, there are no prerequisites for this course.

**Course Objectives**

The purpose of this course is to provide students with practical legal knowledge of specific substantive real estate law topics and current legal trends and issues. This course is structured on the premise that legal knowledge is a personal and strategic asset. The course coverage is intended to provide both theoretical and practical applications of the subject matter. It deals with the characteristics under American law by which property rights are created, controlled, collateralized and transferred. These relationships will promote the efficient use of recourses, expand patterns of wealth distribution and address public policy issues with respect to the development, ownership and use of real property. The student will acquire a sound grasp of the relevant concepts, legal vocabulary, and rules of law that apply.

**Learning Objectives**

At the conclusion of the course, students will have learned a substantial range of legal topics within the real estate law environment. Students will have improved their deductive reasoning skills and knowledge of both basic and advanced topics within the subject matter presented. Students will be able to integrate knowledge ranging from issue spotting, identifying legal issues and applying substantive law. The students will be challenged to be critical thinkers as they learn and apply the material. The facts often dictate the decision a trier of fact will make. Efficiently marshaling the ethical, legal and public policy rationales to decide a course of action is one of the learning outcomes we seek in this course. Both lecture and Socratic methods of instruction are employed during class.

These objectives will be met through the critical thinking exercises undertaken in each class. It is important for students to read the assigned material *before* class, including the current *Wall Street Journal* and Twitter feeds. Bring the textbook to each class in order to respond to these exercises during class.

As students will quickly learn, merely following the law is often at odds with what is ethical. This conflict results from the fact that the law is a compromise of competing interests. It is the lowest, most base point of agreement that divergent policies can reach. As will be often repeated in this course, “the law is what you can do; ethics is what you should do.” Identifying those ethical conflicts and trying to meet the obligations to the many stakeholders will be a frequent topic of class discussion.

Students should be open to communicating freely in class, being called upon to clarify another student’s comment, and to otherwise actively participate in our learning this semester. Class presentations are part of the process to demonstrate students’ technical competencies and presentation skills within a team setting.

# Required Textbook

**Textbook:**

*Contemporary Real Estate Law*

Authors: C. Kerry Fields, Kevin C. Fields

# Publisher: Wolters Kluwer Law & Business

ISBN-10: 1-4548-1642-2

ISBN-13: 978-1-4548-16423

A twitter account.

A subscription to the *Wall Street Journal*. You may be assigned test questions from finance and real estate related questions from the *Journal*.

**Office Hours**

If students have any questions about the material covered in the class they should not hesitate to see me. However, if a student cannot make the regular office hours, send an **email** to schedule an appointment. I can also be reached at 213.740.9307 where students should leave a message on my voice mail with their name and phone number (with area code). **Email** is the preferred method to contact me to schedule an appointment as the messages are checked frequently.

**Course Notes**

Copies of lecture slides and other class information are available through your Blackboard account. Prior exams are posted without answers. Questions are provided without answers as students should use them as a learning tool. Since legal analyses are fact-dependent a minor change in the statement of the facts can result in a different answer in a law course examination. The material on your exam will vary from the one posted on Blackboard, due to changes in the textbook, topics of interest during the semester, differing course coverage and class interests between semesters.

The material presented and the classroom discussions are for the students’ edification. They are not intended to be legal advice to students in connection with any legal issue they or others may have. If students have a legal matter, they are advised to promptly consult an experienced attorney who can confidentially and fully review the facts and advise them of their legal rights and remedies. Quite often, the facts dictate the result and only in the context of an attorney-client relationship can they be reviewed and legal opinions rendered.

If you wish to have an insight into the lecture or topics to be discussed during class follow our discussion at [USCProf@twitter.com](file:///J:\USC\Fall%202012\FBE%20428\USCProf@twitter.com). Topics for class discussion and participation exercises will involve those articles, policy and ethical prompts posted in advance of class. You are responsible for staying current in your reading of the *Wall Street Journal*.

**Grading Summary**

The course grading is based on the following criteria:

Presentation: 17%

Quizzes: 17%

Midterm: 33%

Final: 33%

|  |  |
| --- | --- |
| **Assessment** | **Maximum points** |
| Midterm Exam | 150 |
| Team Presentation/IRAC | 75 |
| Quizzes/in class participation (5 out 6). They **cannot** be made up. We will drop the lowest score. | 75 |
| Final Exam | 150 |
| Total Points | **450** |

**Exam Dates**

|  |  |  |
| --- | --- | --- |
|  | Date | Time |
| Midterm Exam | June 30, 2015 | During 2nd half of class |
| Final Exam | August 11, 2015 | 7:00 p.m. – 9:00 p.m. |

**Course Grading Policy. T**he instructor determines what qualifies as an accurate grade on an assignment, exam, or other deliverable, and the instructor’s evaluation of the performance of each individual student is the final basis for assigning grades for the course.[[1]](#endnote-1) Students’ grades for this course depend upon their performance and the grading standards and policies of the Marshall School of Business, and the academic policies and procedures of the University. There is no specific guideline with respect to the number or percentage of any specific grade given or the numbers of persons who pass or fail the course. Thus, discretion is given to each instructor regarding the assignment and distribution of grades. Historically, the class final mean g.p.a. has been 3.5.

As to their ongoing status in the class, students will receive a grade but the more important performance predictor is their class rank. Rank is more important than the interim letter grade because at the end of the semester, all pending letter grades are “curved” to ensure compliance with these policies. (*e.g*. if there are too many scores at a particular letter and grade point, then the cut-off for a letter grade is raised and the scores below that cutoff require that a reduced letter grade(s) be assigned to ensure compliance with the Marshall grading policies. That is why rank is a better predictor of a student’s performance). Once these curves are in place, they will not be reset to accommodate individual requests. No relief will be granted on that basis. Grades are not open to negotiation. Petitions for exceptions or understanding of particular needs to attain a higher grade for some reason will not be honored. What is done for one student must be done for all, and the result is that if one student’s grade is adjusted, so will all other students’ grades.

**Preparation for class.** Students are expected to read each week’s reading and case assignments *prior to class*, and *be prepared* to discuss them. In order to make the class periods as engaging as possible, there will be a concentration on the application of the material. Students should always proceed to the next reading assignment whether the previous reading has been fully discussed in class. Projects, exercises and guest speakers can interrupt the delivery of instructional material. Despite these interruptions students are responsible for learning all material assigned even if not directly covered in lecture.

**Exams.** Generally,the material is unique to each exam; however, students may be asked to compare and contrast a substantive law rule with one learned earlier in the course. While every examination will ask students to recognize definitions, the focus of the examinations will be on the application of the legal principle involved. Students are strongly encouraged to form and use a study group in their learning of the material, well in advance of the exam dates. Cooperative learning is important as it will assist students in identifying their areas of weakness in advance.

**Quizzes.** We have six (6) quizzes during the course. We count five (5) of them and drop your lowest grade. Each quiz is worth 15 points. If you are late (work, traffic, etc.) or miss a quiz, then we shall count those that you do take. No makeup quiz credit is available. Always bring your textbook to class as these quizzes will be open book.

**In class participation.** Quizzes and in class participation may occur electronically and or in written form. You will need a computer with wireless internet connectivity or a cell phone with text messaging capability. If you have neither resource, please make alternative arrangements with me during the first week of class.

**Team Presentations**. During the first week of the course, students will select a team. Always bring your presentation material on a USB to class. Do not use an email to download the material for your presentation, as we have to close all of my open files to allow you access.

Ground rules:

* Each team will be allowed a *maximum* of 20 minutes to present.
* E-mail your slides to me by 9 p.m. of the day *prior* to your presentation.
* Bring your presentation materials to class on a USB. No e-mail downloads.
* Hand me a copy of the presentation when you begin your presentation.
* Do not read material.
* Do not restate something from the text or your sources. This effort must reflect your independent research.
* Follow the rubric provided.

Presentations are graded as follows:

|  |  |
| --- | --- |
| **Start with 75 Points** | **Deducts** |
| 0-75 for lack of depth in substantive material covered. Must use original legal research beyond the textbook (law firm websites may not be used) |  |
| 0-50 for quality of presentation (e.g. *reading* the material, obviously unprepared, disjointed, incomplete table of authorities). Make it interesting. |  |
| 0-50 for lack of full participation by each team member/ lack of contribution, exceeding time limit, |  |
| **Total** |  |

**Makeup exams and grading issues.** Make-up midterms will be given only in *exceptional circumstances* and will require *prior* arrangements. Student-athletes and others with verifiable schedule conflicts with the exam schedule must arrange for an alternate test and testing date *one week* prior to an exam date. No protests of unclear erasures of Scantron answers or failing to complete the key on a Scantron will be honored.

You will leave the exam room with your copy of the exam. The exam answer key will be posted following the exam. If you disagree with a posted answer, you must do the following within 24 hours of the posting of the answer key for each exam:

* **email** me with the following information:
  + the **name of the course**,
  + the **version** number of the test,
  + **the question** involved, and,
  + your **complete** analysis and argument of why your choice is the best of those presented within 1 calendar day of the examination. Your arguments are to be based upon what has been taught in the course. Arguments based upon analyses extracted from web-based sources are not read.

After the protest period has ended, *no* further discussion of the answers will be entertained. The curve will be set for the class within a few days following the examination.

The course grade book is updated and posted weekly. Students are responsible for verifying that their grades are properly recorded. The last day to make any correction to the grade book is the last day of class. No grade book corrections will be made thereafter, including after the final exam is taken.

**Absences**. A student does not need to email me in advance that he or she will miss class on a particular day.

**Students with Disabilities**

Students need to make a request with Disability Services and Programs (DSP) for each academic term that accommodations are desired. Guidelines for the DSP accommodation process can be found here: [https://sait.usc.edu/academicsupport/centerprograms/dsp/registration/guidelines/guidelines\_general.html](https://sait.usc.edu/academicsupport/centerprograms/dsp/registration/guidelines/guidelines_general.html%20%20)

Students requesting test-related accommodations will need to share and discuss their DSP recommended accommodation letter/s with their faculty and/or appropriate departmental contact person at least three weeks before the date the accommodations will be needed. Additional time may be needed for final exams. Reasonable exceptions will be considered during the first three weeks of the semester as well as for temporary injuries and for students recently diagnosed. Please note that a reasonable period of time is still required for DSP to review documentation and to make a determination whether a requested accommodation will be appropriate. <https://sait.usc.edu/academicsupport/centerprograms/dsp/registration/accommodationletters_howto.asp>

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to me as early in the semester as possible. DSP is located in STU 301 and is open 8:30 a.m.–5:00 p.m., Monday through Friday. The phone number for DSP is 213.740.0776. For more information visit <http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html>

If you are taking an examination at the DSP office and believe that a question is unclear, incomplete, ambiguous or otherwise defective, you are advised to attach additional pages to the examination placed at DSP. If you are making such a contention, then, you are *required* to state clearly the problem you encountered with the question and why you answered the question in the manner you did. Only with such information in hand at the time I grade your examination will I be able to gauge the appropriateness of giving you credit for your answer to the subject question. If for some reason, you must take the examination *after* the class has taken the examination, you will take a comparable examination to that given the students in class. You will not receive the same examination as your classmates as all students leave an exam with a copy of the exam questions.

**Add/Drop Process**

<http://www.usc.edu/dept/publications/cat2011/academic/policies.html>

In compliance with USC and Marshall’s policies classes are open enrollment (R-clearance) through the first week of class. All classes are closed (switched to D-clearance) at the end of the first week. This policy minimizes the complexity of the registration process for students by standardizing across classes.  You will be dropped from the class if you don’t attend the first two sessions. If you decide to drop, or if you choose not to attend the first two sessions and are dropped, you risk being not being able to add to another section this semester, since they might reach capacity. You can only add a class after the first week of classes if you receive approval from the instructor.[[2]](#endnote-2)

**Statement on Academic Conduct and Support Systems**

**Academic Conduct**

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences.  Please familiarize yourself with the discussion of plagiarism in *SCampus* in Section 11, *Behavior Violating University Standards* [https://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions](https://scampus.usc.edu/1100-behavior-violating-university-standards-and-appropriate-sanctions/).  Other forms of academic dishonesty are equally unacceptable.  See additional information in *SCampus* and university policies on scientific misconduct, [http://policy.usc.edu/scientific-misconduct](http://policy.usc.edu/scientific-misconduct/).

Students will be referred to the Office of Student Judicial Affairs and Community Standards for further review, should there be any suspicion of academic dishonesty. The review process can be found at: <http://www.usc.edu/student-affairs/SJACS/> . Failure to adhere to the academic conduct standards set forth by these guidelines and our programs will not be tolerated by the USC Marshall community and can lead to dismissal.[[3]](#endnote-3)

Any use of external assistance during an examination shall be considered academically dishonest. The following are considered unacceptable examination behaviors: communication with fellow students during an examination, copying materials from another student’s exam, allowing another student to copy from an exam, the use of electronic devices to communicate to others during the exam, possession or use of unauthorized notes, electronic or other dictionaries during exams. Students cannot achieve grades that they have not legitimately earned. Part of Marshall’s mission is to remind students of the value systems that will regulate their business lives, and breaching ethical standards cannot be condoned.

Discrimination, sexual assault, and harassment are not tolerated by the university.  You are encouraged to report any incidents to the *Office of Equity and Diversity* [http://equity.usc.edu](http://equity.usc.edu/)  or to the *Department of Public Safety* <http://capsnet.usc.edu/department/department-public-safety/online-forms/contact-us>.  This is important for the safety of the whole USC community.  Another member of the university community – such as a friend, classmate, advisor, or faculty member – can help initiate the report, or can initiate the report on behalf of another person.  *The Center for Women and Men* <http://www.usc.edu/student-affairs/cwm/> provides 24/7 confidential support, and the sexual assault resource center webpage [http://sarc.usc.edu](http://sarc.usc.edu/) describes reporting options and other resources.

## Support Systems

Students whose primary language is not English should check with the *American Language Institute* <http://dornsife.usc.edu/ali>, which sponsors courses and workshops specifically for international graduate students.

*The Office of Disability Services and Programs* [www.usc.edu/disability](http://www.usc.edu/disability)provides certification for students with disabilities and helps arrange the relevant accommodations.

If an officially  declared emergency makes travel to campus infeasible, *USC Emergency Information* [http://emergency.usc.edu](http://emergency.usc.edu/)will provide safety and other updates, including ways in which instruction will be continued by means of blackboard, teleconferencing, and other technology.

**Other Course Policies**

**Electronic usage policy**. All electronic devices (including but not limited to iPads, computers, cell phones, netbooks, laptops and other texting devices) must be completely turned off during examinations. Upon request, you must comply and put your device on your desk in off mode, face down or in your backpack.

**No recording and copyright notice**. *No student may record any lecture, class discussion or meeting with me without my prior express written permission*. The word “record” or the act of recording includes, but is not limited to, any and all means by which sound or visual images can be stored, duplicated or retransmitted whether by an electro-mechanical, analog, digital, wire, electronic or other device or any other means of signal encoding. I reserve all rights, including copyright, to my lectures, course syllabi and related materials, including summaries, Power Points, prior exams, answer keys, and all supplementary course materials available to the students enrolled in my class whether posted on Blackboard or otherwise. They may not be reproduced, distributed, copied, or disseminated in any media or in any form, including but not limited to all course note-sharing websites. *Exceptions are made for students who have made prior arrangements with DSP and me*. Use of any recorded or distributed material is reserved exclusively for the USC students registered in this class.

**Incomplete grades**. A mark of IN (incomplete) may be assigned when work is not completed because of a documented illness or other “emergency” that occurs after the 12th week of the semester (or the twelfth week equivalent for any course that is scheduled for less than 15 weeks).

An “emergency” is defined as a serious documented illness, or an unforeseen situation that is beyond the student’s control, that prevents a student from completing the semester. Prior to the 12th week, the student still has the option of dropping the class. Arrangements for completing an IN must be initiated by the student and agreed to by the instructor prior to the final examination. If an Incomplete is assigned as the student’s grade, the instructor is required to fill out an “Assignment of an Incomplete (IN) and Requirements for Completion” form at <http://www.usc.edu/dept/ARR/grades/index.html>) which specifies to the student and to the department the work remaining to be done, the procedures for its completion, the grade in the course to date, and the weight to be assigned to work remaining to be done when the final grade is computed. Both the instructor and student must sign the form with a copy of the form filed in the department. Class work to complete the course must be completed within one calendar year from the date the IN was assigned. The IN mark will be converted to an F grade should the course not be completed.

**Amendments to the course syllabus**. For those who hold the mistaken belief that a syllabus is a legal contract that is not subject to an instructor’s unilateral change during a semester, then, consider this syllabus as a contract subject to a condition subsequent. The condition subsequent is that in my sole and absolute discretion I may adjust course requirements as necessary to meet the learning and instructional objectives of this particular class, the Marshall School of Business and the University of Southern California. While such changes rarely occur, this right is retained by me.

**Course Readings**

The course coverage as related to the course textbook:

PART I: Real Property Interests

Chapter 1: Introduction to Real Estate Law

Chapter 2: Real Property Rights and Interests

Chapter 3: Easements and Other Nonpossessory Rights

Chapter 4: Fixtures and Real Property Estates

PART II: Purchasing, Financing, and Conveying Real Estate

Chapter 6: Agency and Real Estate Brokers

Chapter 7: The Purchase Contract

Chapter 8: Valuation and Financing of Real Estate

Chapter 9: Deeds, Title, and Closing

Chapter 10: Defaults, Workouts, and Foreclosures

PART III: Owning, Operating, and Insuring Real Estate

Chapter 11: Ownership of Real Property

Chapter 12: Multi-unit Dwellings and Property Management

Chapter 13: Residential and Commercial Leases

Chapter 14: Insuring Real Property

PART IV: Special Topics

Chapter 17: Construction Law and Liens

Chapter 18: Bankruptcy and Restructuring Transactions

**Course Schedule**

|  |  |  |
| --- | --- | --- |
| **Date** | **Material Covered** | **Notes** |
| June 2 | **Introduction**  Introduction to Real Estate Law  Chapter 1  **Real Property Rights and Interests** Chapter 2 | **Course introduction; syllabus and ground rules reviewed.** |
| June 9 | **Easements and Other Nonpossessory Rights**  Chapter 3  **Fixtures and Real Property Estates**  Chapter 4  **QUIZ 1** | **Team 1: Conservation Easements** |
| June 16 | **Agency and Real Estate Brokers**  Chapter 6 | **Team 2: Wetlands Restoration** |
| June 23 | **The Purchase Contract**  Chapter 7  **QUIZ 2** | **Team 3: Mello Roos overview** |
| June 30 | **Valuation and Financing of Real Estate**  Chapter 8  **MIDTERM-Second half of class**  (Ch.1-7) |  |
| July 7 | **Deeds, Title and Closing**  Chapter 9  **Defaults, Workouts and Foreclosures** Chapter 10  **QUIZ 3** |  |
| July 14 | **Ownership of Real Property**  Chapter 11  **Multi-unit Dwellings and Property Management**  Chapter 12  **QUIZ 4** | **Team 4: Asbestos Liability** |
| July 21 | **Insuring Real Property**  Chapter 14  **QUIZ 5** | **Team 5: Toxic Mold Liability** |
| July 28 | **Residential and Commercial Leases**  Chapter 13  **Construction Law, Liens, and Remedies**  Chapter 17 (start) | **Team 6: Rent Control** |
| August 4 | **Finish Constr. Law and**  **Bankruptcy and Restructuring Transactions**  Chapter 18  **QUIZ 6** | **Team 7: Brownfields** |
| August 11 | **Final Examination**  (Ch.9-13, 17 and 18)  No questions on Ch. 8 | (7:00 – 9:00 p.m.) |

**END**

1. Content provided by Marshall to instructors. [↑](#endnote-ref-1)
2. *id*. [↑](#endnote-ref-2)
3. *id*. [↑](#endnote-ref-3)